

ST 02-0053-GIL 02/28/2002 MANUFACTURING MACHINERY & EQUIPMENT

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

February 28, 2002

Dear Xxxxx:

This letter is in response to your letter dated December 28, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Our client is engaged in the design and manufacturing of tooling used in the production of heavy equipment. The buyers of this tooling are the final users of our client's product. Listed below is a series of questions regarding whether sales tax should be paid on certain purchases made in the manufacturing process. Please reply at the earliest possible date so we can assure our client is in compliance with the applicable sales tax regulations. Thank you in advance for your attention to this matter.

1. Welding wire, set-up blocks and vises used in the manufacturing process. These items are interchangeable with different machines and components used in production.
2. Repair parts for manufacturing equipment.
3. Shipping and bonding material, boxes and pallets used for transporting the final product to the customer.
4. Pallets used in production to move the product from one machine to another.
5. Perishable tools used by employees in production. These items consist of small hand tools, such as gauges, micrometers, etc., not attached to the actual manufacturing equipment.

DEPARTMENT'S RESPONSE:

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the

manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

Hand tools do not qualify for the exemption. See subsection (c)(3) of Section 130.330. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption. Based upon the very limited information in your letter, the "set-up blocks" and vices referenced in your letter would not generally qualify for the exemption.

If the welding wire referenced in your letter becomes incorporated into qualifying manufacturing machinery or equipment, the welding wire may qualify for the Manufacturing Machinery and Equipment Exemption. In addition, the welding wire may be purchased for resale without incurring tax even if it is not incorporated into qualifying manufacturing machinery or equipment as long as the wire is incorporated into the item that is being manufactured for sale or lease. See the requirements for a Certificate of Resale in the enclosed copy of 86 Ill. Adm. Code 130.1405.

The enclosed copy of 86 Ill. Adm. Code 130.2070 sets out when packaging materials and containers are not subject to Retailers' Occupation Tax liability. Regarding shipping and bonding material, boxes, and pallets used for transporting the final product to the consumer, purchasers of containers by persons who sell tangible personal property contained in such containers to others are deemed to making purchases for resale of such containers to purchasers for resale as long as those purchasers transfer the ownership of the containers to their customers together with the ownership of the tangible personal property contained in those containers. Purchasers may make purchases of such containers for resale so long as the purchaser provides the seller with a Certificate of Resale in accordance with the enclosed copy of 86 Ill. Adm. Code 130.1405.

If ownership of the packaging materials is not transferred with the tangible personal property contained in them, then those materials were purchased for the seller's use and consumption and not for resale. See subsection (c) of Section 130.2070. An example would be a seller providing pallets for transportation that are returned to the seller after their use.

Pallets used by the seller that are not transferred to a purchaser as part of the packaging of the merchandise may be exempt if they are used primarily (over 50% of the time) to transport or convey the item being manufactured between production lines or stations. The use of machinery and equipment to convey, handle, or transport tangible personal property to be sold within production stations on production lines or directly between such production stations or buildings within the same plant qualifies for the manufacturing machinery and equipment exemption. See subsection (d)(3)(D) of Section 130.330. However, the exemption does not extend to machinery or equipment used to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle nor to store, convey, handle or transport finished tangible personal property after the completion of the production cycle. Pallets used to move materials prior to the production cycle or after the production cycle would not qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.